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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/673,360 | 10/16/2000 | Toshihiko Oba | KOI-046 | 6711 |

7590 03/04/2004

BRINK HOFFERT GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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| EXAMINER |
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NOLAN, DANIEL A

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| ART UNIT | PAPER NUMBER |
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2654

26

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/673,360

Applicant(s)

OBA, TOSHIHIKO

Examiner

Daniel A. Nolan

Art Unit

2654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-111 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-111 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. 19.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Examiner-Initiated Interview Summary

Application

09/673,360

Applicant(s)

OBA, TOSHIHIKO

Examiner

Daniel A. Nolan

Art Unit

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All Participants:

(1) Daniel A. Nolan.

(2) Mr. Tadashi Horie.

Status of Application: _____

(3) _____

(4) _____

Date of Interview: 27 February 2004

Time: 3 PM

Type of Interview:

- ☒ Telephonic
☐ Video Conference
☐ Personal (Copy given to: ☐ Applicant ☐ Applicant's representative)

Exhibit Shown or Demonstrated: ☐ Yes ☐ No

If Yes, provide a brief description:

Part I.

Rejection(s) discussed:

Claims discussed:

Prior art documents discussed:

Part II.

SUBSTANCE OF INTERVIEW DESCRIBING THE GENERAL NATURE OF WHAT WAS DISCUSSED:

Election required of restriction between group I for claims 35-93, class 381/320, group II for claims 94-103, class 381/ 71.3 and group III for claims 104-111, drawn to class 704/257.

Part III.

- ☐ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview directly resulted in the allowance of the application. The examiner will provide a written summary of the substance of the interview in the Notice of Allowability.
- ☒ It is not necessary for applicant to provide a separate record of the substance of the interview, since the interview did not result in resolution of all issues. A brief summary by the examiner appears in Part II above.


(Examiner/SPE Signature)

(Applicant/Applicant's Representative Signature – if appropriate)

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 35-93, drawn to Electrical Audio Signal Processing Systems And Devices; Hearing Aids, Electrical; Spectral Control, classified in class 381, subclass 320.
 - II. Claims 94-103, drawn to Artificial Larynx, Electrical; Acoustical Noise or Sound Cancellation; Acoustic, Non-airborne Vibration Sensing or Counter-wave Emission; From Appliance, classified in class 381, subclass 71.3.
 - III. Claims 104-111, drawn to Data Processing: Speech Signal Processing, Linguistics, Language Translation, & Audio Compression/Decompression; Speech Signal Processing; Recognition; Word Recognition; Specialized Models; Natural Language, classified in class 704, subclass 257.
2. The inventions are distinct, each from the other because of the following reasons:
 - Inventions I & II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because a *device that outputs the sound information to a user* is not required when the sound is from the user. The subcombination has separate utility such as *providing latent storage of speech to accompany text messages or multimedia presentations*.

- Inventions I & III are related as combination & subcombination (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the input of *assistive hearing does not require separately generated speech information*. The subcombination has separate utility such as *to transcribe speech into text*.
- Inventions II & III are related as combination & subcombination (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the synthesized speech products are output and so do not require subsequent *speech recognition to comprehend a semantic meaning in the speech* that was generated. The subcombination has separate utility such as *to control devices by speech commands*.

3. Furthermore, should Group I be elected, a further election of species from within that group is required because claims 35-52, 53-82 and 83-93 are generic to a plurality of disclosed patentably distinct species as follows:

- I A. Claims 35-52, drawn to Electrical Audio Signal Processing Systems And Devices; Hearing Aids, Electrical; Spectral Control, classified in class 381, subclass 320.
- I B. Claims 53-82, drawn to Surgery Surgically Implanted Vibratory Hearing Aid, classified in class 600, subclass 25.
- I C. Claims 83-93, drawn to Data Processing: Speech Signal Processing, Linguistics, Language Translation, & Audio Compression/Decompression; Speech Signal Processing; Recognition; Speech to image, classified in class 704, subclass 235.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II – III and the search required for Group II is not required for Group III and the search required for Group IA is not required for Groups IB & IC and the search required for Group IB is not required for Groups IC, restriction for examination purposes as indicated is proper.

5. A telephone call was made to Mr. Tadashi Horie on 27 February 2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Daniel A. Nolan at telephone (703) 305-1368 whose normal business hours are Mon, Tue, Thu & Fri, from 7 AM to 5 PM.

If attempts to contact the examiner by telephone are unsuccessful, supervisor Richemond Dorvil can be reached at (703)305-9645.

The fax phone number for Technology Center 2600 is (703)872-9314. Label informal and draft communications as "DRAFT" or "PROPOSED", & designate formal communications as "EXPEDITED PROCEDURE". Formal response to this action may be faxed according to the above instructions,

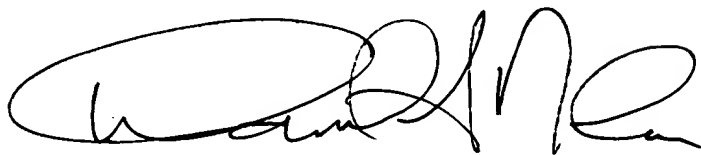
or mailed to: P.O. Box 1450
Alexandria, IIIA 22313-1450

or hand-deliver to: Crystal Park 2,
2121 Crystal Drive, Arlington, IIIA,
Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Technology Center 2600 Customer Service Office at telephone number (703) 306-0377.

Daniel A. Nolan
Examiner
Art Unit 2654

DAN/d
March 1, 2004

A handwritten signature in black ink, appearing to read 'Daniel A. Nolan', written in a cursive style.

**DANIEL NOLAN
PATENT EXAMINER**